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Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Security Council
Seventy-first year

Report of the International Tribunal for the Former Yugoslavia

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and the members of the Security Council the twenty-third annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991, submitted by the President of the International Tribunal in accordance with article 34 of the statute of the Tribunal (see S/25704 and Corr.1, annex), which states that:

> The President of the International Tribunal shall submit an annual report of the International Tribunal to the Security Council and to the General Assembly.

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Letter of transmittal

Letter dated 1 August 2016 from the President of the International Tribunal for the Former Yugoslavia addressed to the President of the General Assembly and the President of the Security Council

I have the honour to submit the twenty-third annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991, dated 1 August 2016, to the General Assembly and the Security Council, pursuant to article 34 of the statute of the Tribunal.

(*Signed*) Carmel **Agius**
President

Twenty-third annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Summary

The twenty-third annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 covers the period from 1 August 2015 to 31 July 2016.

The Tribunal continued to focus on the completion of pending trials and appeals, making significant progress during the reporting period. Two appeal judgments and two trial judgments were rendered. In addition, the judges of the Appeals Chamber delivered the judgments in the final appeal case from the International Criminal Tribunal for Rwanda. A further trial case was terminated following the death of the accused. Now, only two cases — one trial and one appeal — remain. All 161 individuals indicted for serious violations of international humanitarian law are accounted for. At the close of the reporting period, six persons were in appeal proceedings and one person was on trial. One pending contempt case remains, with arrest warrants yet to be executed by Serbia. The present report details the activities of the Tribunal during the reporting period and demonstrates the Tribunal's commitment to completing its proceedings expeditiously and in accordance with due process.

During the reporting period, the Tribunal saw a change in leadership. Judge Theodor Meron (United States of America) and Judge Carmel Agius (Malta) continued to serve as President and Vice-President, respectively, until 16 November 2015. On 17 November 2015, Judge Agius assumed the presidency and Judge Liu Daqun (China) became Vice-President. The respective Presidents of the Tribunal continued to undertake and promote efforts to monitor progress and prevent delays in the cases by bolstering staffing resources in cases needing reinforcement and by attempting to counter staff attrition.

With the valuable assistance of the Office of Legal Affairs of the Secretariat and the Security Council Informal Working Group on International Tribunals, the Tribunal continued the smooth transition of its functions to the International Residual Mechanism for Criminal Tribunals.

The Office of the Prosecutor remained focused on the expeditious completion of its trial and appeal cases. It continued to rely on the cooperation of States in fulfilling its mandate and to support domestic war crimes prosecutions in the former Yugoslavia, but expressed particular concerns in relation to Serbia's failure to execute arrest warrants in the pending contempt case.

Under the authority of the President, the Registry continued to provide valuable administrative and judicial support to the Tribunal, coordinating a wide range of legal, policy and operational matters. The Registry also coordinated practical arrangements necessary for the ongoing process of downsizing the Tribunal's operations and transferring responsibilities to the Mechanism.

I. Introduction

1. The twenty-third annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 outlines the activities of the Tribunal for the period from 1 August 2015 to 31 July 2016.

2. The Tribunal continued to implement its completion strategy as endorsed by the Security Council in resolution 1503 (2003), making significant progress during the reporting period. Judgments were delivered in the two trial cases of *Prosecutor v. Radovan Karadžić* and *Prosecutor v. Vojislav Šešelj* and in the two appeal cases of *Prosecutor v. Jovica Stanišić and Franko Simatović* and *Prosecutor v. Mićo Stanišić and Stojan Župljanin*. In addition, in December 2015 the Appeals Chamber of the International Criminal Tribunal for Rwanda, on which judges of the International Tribunal for the Former Yugoslavia also sit, delivered its judgement in the case of *Prosecutor v. Nyiramasuhuko et al.* ("*Butare*"). The trial case of *Prosecutor v. Goran Hadžić* was also terminated during the reporting period following the death of the accused. All 161 individuals indicted for serious violations of international humanitarian law are accounted for. At the close of the reporting period only one appeal, *Prosecutor v. Prlić et al.*, involving six convicted persons, and one trial, *Prosecutor v. Ratko Mladić*, involving one accused person, are ongoing. However, in a pending contempt case, *Prosecutor v. Jojić et al.*, there are currently three indictees whose arrest warrants are yet to be executed.

3. For the first part of the reporting period, Judge Theodor Meron (United States of America) and Judge Carmel Agius (Malta) continued to serve as President and Vice-President, respectively. At an extraordinary plenary session of judges held on 21 October 2015, Judge Agius and Judge Liu Daqun (China) were elected as President and Vice-President of the Tribunal, respectively; they took office on 17 November 2015. Throughout the reporting period, Serge Brammertz (Belgium) continued to serve as Prosecutor and John Hocking (Australia) as Registrar.

4. Each organ of the Tribunal continued to undertake measures to improve efficiency and to ensure completion of the Tribunal's mandate by the end of 2017. Judges and staff worked extremely hard to deliver judgments on time, with the Trial and Appeals Scheduling Working Group (chaired by the Vice-President) closely monitoring progress in all cases. In addition, the Chambers continued to identify and adopt measures to maximize the efficiency of ongoing judicial proceedings and avoid slippage, while preserving the highest levels of procedural fairness. The Office of the President and the Registrar worked closely to address, inter alia, the escalating challenges of staff attrition and staff morale, while the Office of the Prosecutor continued to downsize posts and implemented a resource-sharing policy with the Office of the Prosecutor of the International Residual Mechanism for Criminal Tribunals.

II. Activities involving the entire Tribunal

A. President

5. Both President Meron and President Agius oversaw the Tribunal's work during their respective terms as President, focusing on the judicial responsibilities of the office and on initiatives aimed at the timely completion of trials and appeals, and working closely with the Tribunal's Registrar, judges and management. Each President also represented the Tribunal at international forums and met with representatives of various countries, as well as high-level officials from the United Nations. In addition, President Agius oversaw the development of proposals for legacy events in the Tribunal's final biennium, to ensure its lasting positive impact beyond the 2017 closure date. In line with this, President Agius announced soon after assuming the presidency that his priorities in the Tribunal's final biennium would be: first and foremost, to meet the 2017 deadline for the closure of the Tribunal; second, to ensure the efficiency of judicial proceedings without sacrificing their fairness and quality; and third, to consolidate the image of the Tribunal and the impact of its work.

1. Ensuring timely completion of the Tribunal's judicial work

6. During their respective terms, the Presidents and Vice-Presidents coordinated closely with judges and staff of the Tribunal to ensure that all trials and appeals anticipated to conclude during the reporting period were finished on time, and to reduce the risk of delays in ongoing trials and appeals. In particular, they actively monitored the progress of cases and took measures to prevent and address the impact of staff attrition, including assigning additional legal staff to teams requiring assistance as a result of the loss of highly experienced staff, offering promotions as an incentive to retain staff and exploring other possible solutions, such as an end-of-service grant. In addition, the Trial and Appeals Scheduling Working Group, chaired by the Vice-President, met regularly to monitor and report on trials and appeals, to ensure that cases were kept on track and to identify and prevent any possible causes of delay.

2. Relations with Governments and international organizations

7. During the reporting period and within their respective terms of office, Presidents Meron and Agius made presentations regarding the Tribunal's work to the principal organs of the United Nations and the Informal Working Group on International Tribunals. On 13 October 2015, President Meron addressed the General Assembly regarding the Tribunal's twenty-second annual report (A/70/226-S/2015/585). On 9 December 2015, President Agius addressed the Security Council to present the Tribunal's twenty-fourth completion strategy report (S/2015/874). On 8 June 2016, President Agius addressed the Security Council regarding the Tribunal's twenty-fifth completion strategy report (S/2016/454). In addition, during missions to New York, both Presidents met with representatives of member States and officials of the Office of Legal Affairs. President Agius also met with the Secretary-General in December 2015.

8. Various representatives of Governments and judiciaries visited the Tribunal during the reporting period and met with the respective Presidents, judges and other officials to learn about the Tribunal's work, achievements and challenges. President

Meron received visits from, among others, the ambassadors of Australia, Bangladesh and France, as well as the President of the Croatian Supreme Court, a judge of the Constitutional Court of the Republic of Korea and the legal counsellor of the French Embassy.

9. President Agius received visits from, among others, the ambassadors of Armenia, Croatia, Germany, Italy, the Russian Federation, Serbia and the United Kingdom of Great Britain and Northern Ireland, as well as the United Kingdom Minister of State and Prime Minister's Special Representative on Preventing Sexual Violence in Conflict, the Secretary-General of the Ministry of Foreign Affairs of the Netherlands, the Minister of Justice of Croatia and the Croatian Member of the Presidency of Bosnia and Herzegovina. Further, in May 2016, a delegation of judges, prosecutors and investigators from Montenegro conducted a two-day visit to the Tribunal. In addition to those visits, on 25 February 2016 President Agius held a briefing for the diplomatic community in The Hague on the work of the Tribunal and his plan for its final biennium, which was attended by over 90 diplomats.

10. On 21 September 2015, President Meron conducted an official mission to the European Union in Brussels to seek support for the Tribunal's outreach programme. On 26 February 2016, President Agius travelled on official mission to Strasbourg to attend a conference organized jointly by the European Court of Human Rights and the European Society of International Law. In addition, President Agius conducted a mission to Bosnia and Herzegovina to attend a commemoration ceremony at the Potočari Memorial Centre on 11 July 2016, which marked the twenty-first anniversary of the genocide in Srebrenica. President Agius delivered an address there emphasizing, inter alia, the Tribunal's role in recognizing the crimes committed in Srebrenica as genocide and the importance of fully acknowledging the past.

3. Judicial activity

11. The statute of the Tribunal, the Rules of Procedure and Evidence and the Practice Directions confer upon the President certain judicial functions. In carrying out such duties, President Meron and President Agius issued numerous orders assigning cases to Chambers. In addition, President Meron issued a decision on review of a funding decision of the Registrar and considered a request for early release and provisional release but dismissed it for lack of jurisdiction.

4. Transition to the International Residual Mechanism for Criminal Tribunals

12. The Hague branch of the International Residual Mechanism for Criminal Tribunals commenced operations on 1 July 2013. During their respective terms, both Presidents of the Tribunal have taken steps to ensure the continued smooth handover of functions to the Mechanism, including through regular meetings with the Registrar and meetings of the Tribunal's Coordination Council, Records and Archives Working Group and Liquidation Taskforce. In addition, President Agius maintains continuing communication and cooperation with the President of the Mechanism.

5. Legacy and closing events

13. As the Tribunal approaches the end of its life, the question of how best to ensure its lasting legacy, both in the region of the former Yugoslavia and more

broadly, has assumed an even greater significance. During the reporting period, a proposal for a series of Tribunal legacy and closing events was developed with the active involvement of the Office of the President and in consultation with representatives of the Registry, the Office of the Prosecutor and the Association of Defence Counsel.

B. Bureau

14. Pursuant to rule 23 of the Rules of Procedure and Evidence, the Bureau is composed of the President, the Vice-President and the presiding judges of the Trial Chambers. During the reporting period, both President Meron and President Agius regularly consulted the Bureau on general policy matters of the Tribunal as well as specific legal, procedural and operational issues.

C. Coordination Council

15. Pursuant to rule 23 bis of the Rules, the Coordination Council consists of the President, the Prosecutor and the Registrar. The Council held several meetings during the reporting period to discuss, inter alia, the completion strategy, archiving, budgetary concerns, the transition of functions of the Tribunal to the Mechanism and the evaluation of the Tribunal undertaken by the Office of Internal Oversight Services (OIOS) detailed below.

D. Plenary sessions

16. During the reporting period, the judges of the Tribunal held three plenary sessions: an extraordinary session (at which President Agius and Vice-President Liu were elected) on 21 October 2015, and two regular plenary sessions on 28 January 2016 and 6 July 2016.

E. Rules Committee

17. For the first part of the reporting period, the judicial membership of the Rules Committee comprised then Vice-President Agius (Chair), President Meron and Judges Christoph Flügge, Alphons Orie and O-Gon Kwon. Following the change in presidency on 17 November 2015 and the departure of O-Gon Kwon from the Tribunal, the Rules Committee comprised Vice-President Liu (Chair), President Agius and Judges Christoph Flügge and Alphons Orie. The non-voting members include the Prosecutor, the Registrar and a representative of the Association of Defence Counsel. There were no meetings of the Rules Committee during the reporting period.

F. Evaluation by the Office of Internal Oversight Services

18. By its resolution 2256 (2015), the Security Council requested OIOS to carry out an evaluation with respect to the methods and work of the Tribunal and to present its report by 1 June 2016. Officials of OIOS visited the Tribunal in March

2016 to conduct their assessment and the principals, judges and staff of the Tribunal granted their fullest cooperation. The OIOS report, which included the Tribunal's written response as an attachment, was submitted on 16 May 2016. Pursuant to resolution 2256 (2015), the Tribunal will report on implementation of any OIOS recommendations in its next semi-annual report to the Security Council, in November 2016.

III. Activities of the Chambers

A. Composition of the Chambers

19. Seven permanent judges from seven countries currently serve at the Tribunal: Carmel Agius (President, Malta), Liu Daqun (Vice-President, China), Christoph Flügge (Germany), Alphons Orie (Netherlands), Fausto Pocar (Italy), Theodor Meron (United States) and Bakone Justice Moloto (South Africa).

20. O-Gon Kwon (Republic of Korea), Jean-Claude Antonetti (France), Burton Hall (Bahamas), Howard Morrison (United Kingdom), Guy Delvoie (Belgium) and Koffi Kumelio A. Afande (Togo) also served as permanent judges during the reporting period but left the Tribunal at the conclusion of their respective mandates.

21. In addition, the following permanent judges of the International Criminal Tribunal for Rwanda served in the Appeals Chamber of the Tribunal during the reporting period but left the Tribunal at the conclusion of their mandates: Arlette Ramaroson (Madagascar), Khalida Rachid Khan (Pakistan), Bakhtiyar Tuzmukhamedov (Russian Federation) and Mandiaye Niang (Senegal).

22. During the reporting period, Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo) Flavia Lattanzi (Italy) and Melville Baird (Trinidad and Tobago) served as ad litem judges but left at the conclusion of their mandates.

23. At the beginning of the reporting period, three Trial Chambers were in operation. At the close of the reporting period, however, and following the departure of the judges assigned to the *Karadžić* case and the *Šešelj* case, only one Trial Chamber, composed of Judges Orie (presiding), Flügge and Moloto, remained.

24. At the close of the reporting period, the Appeals Chamber was composed of Judges Agius (presiding), Pocar, Liu and Meron, being an insufficient number of judges to enable the Appeals Chamber to deal with any future interlocutory appeals from the *Mladić* case. At the time of drafting of the present report, solutions were being explored to provide the Appeals Chamber with a fifth member for the purpose of such interlocutory appeals. This situation does not exist with respect to the *Prlić et al* case, given the composition of the Appeals Chamber in that case (as outlined below).

B. Principal activities of the Chambers

1. Trial Chamber I

Mladić

25. Ratko Mladić is charged with 11 counts of genocide, crimes against humanity and violations of the laws or customs of war, all in relation to acts allegedly committed in Bosnia and Herzegovina between 12 May 1992 and 30 November 1995. The Trial Chamber is composed of Judges Orie (presiding), Flügge and Moloto. The trial commenced on 16 May 2012. It is expected that the evidentiary phase of the case will be concluded in August of this year, after which the parties will submit their final briefs and make their final arguments. Thereafter, the Trial Chamber will be fully engaged in deliberations and drafting of the judgment. The projected date of delivery of the judgment remains November 2017. The judges and legal support team have taken a variety of measures to minimize delays in the preparation of the trial judgment, including involving additional staff resources in the drafting process. Although such resources have been assigned, highly qualified staff members are expected to continue to leave the Tribunal for more secure employment elsewhere. It will thus be an increasing challenge to maintain continuity of core staff, which is of utmost importance in a case of such size and complexity.

Jojić et al.

26. Petar Jojić, Jovo Ostojić and Vjerica Radeta are charged with four counts of contempt of court in relation to alleged witness intimidation in the *Šešelj* case. The proceedings in this case were confidential until 1 December 2015. Arrest warrants have been pending execution in Serbia since 19 January 2015. As a result, it is not possible to estimate the exact commencement and length of the case. If the arrest warrants are not executed soon, it may become necessary to urgently discuss a solution that would allow this case to be finalized before November 2017.

2. Trial Chamber II

Hadžić

27. Goran Hadžić, now deceased, was charged with 14 counts of crimes against humanity and violations of the laws or customs of war, all in relation to acts allegedly committed in Croatia and Serbia between 25 June 1991 and December 1993. The Trial Chamber was composed of Judges Delvoie (presiding), Hall and Mindua. The trial commenced on 16 October 2012 but was adjourned from 20 October 2014 onwards owing to Mr. Hadžić's grave health condition. On 26 October 2015, the Trial Chamber decided to stay the proceedings for a period of three months considering by majority that, inter alia, while Mr. Hadžić was still fit to stand trial, his health condition precluded his detention at the United Nations Detention Unit in The Hague. The appeal of this decision by the Office of the Prosecutor was granted in part by the Appeals Chamber on 4 March 2016. The Appeals Chamber invited the Trial Chamber to reassess Mr. Hadžić's fitness on the basis of the available and updated medical records. On 24 March 2016, the Trial Chamber issued a further decision in which it found, by majority, that Mr. Hadžić was unfit to stand trial and stayed the proceedings indefinitely. On 19 May 2016, the Office of the Prosecutor requested a formal termination of the proceedings in the

case and the Defence responded on 2 June 2016, agreeing that the case be terminated. The requests to terminate were denied by the Trial Chamber on 17 June 2016 and certification to appeal the decision was granted to both the Office of the Prosecutor and the Defence. However, on 12 July 2016, Mr. Hadžić died and the case was terminated on 22 July 2016.

3. Trial Chamber III

Karadžić

28. The Trial Chamber rendered the trial judgement in the case against Radovan Karadžić on 24 March 2016. The Trial Chamber found the accused guilty of genocide in Srebrenica, five counts of crimes against humanity and four counts of violations of the laws or customs of war. It found him not guilty of one count of genocide pertaining to seven municipalities in Bosnia and Herzegovina. The Chamber sentenced Radovan Karadžić to a single sentence of 40 years of imprisonment.

Šešelj

29. The Trial Chamber rendered the trial judgement in the case against Vojilsav Šešelj on 31 March 2016. The Trial Chamber, by majority on eight out of nine counts, found the accused not guilty of the charges in the indictment and acquitted him of nine counts of crimes against humanity and violations of the laws or customs of war in relation to acts allegedly committed in Croatia, Bosnia and Herzegovina and Vojvodina (Serbia) between August 1991 and September 1993.

4. Appeals Chamber

(a) Interlocutory appeals

30. The Appeals Chamber issued two decisions on interlocutory appeals. On 4 March 2016 in the *Hadžić* case, the Appeals Chamber granted in part the appeal of the Office of the Prosecutor of the Trial Chamber's decision of 26 October 2015. The second decision of the Appeals Chamber was issued confidentially and *ex parte* and therefore no details may be revealed.

(b) Appeals on the merits

31. The Appeals Chamber rendered two final judgments during the reporting period.

32. In the *Stanišić and Simatović* case, the appeal judgement was rendered on 15 December 2015. The Appeals Chamber, by majority, granted certain grounds of appeal lodged by the Office of the Prosecutor and ordered that Jovica Stanišić and Franko Simatović be retried on all counts of the indictment.

33. In the *Stanišić and Župljanin* case, the appeal judgement was rendered on 30 June 2016. Mičo Stanišić and Stojan Župljanin had been convicted by the Trial Chamber of crimes against humanity and war crimes committed in Bosnia and Herzegovina in 1992, and sentenced to 22 years' imprisonment each. The Appeals Chamber affirmed their convictions and sentences.

34. In addition to these two judgments, on 14 December 2015 the Appeals Chamber of the International Criminal Tribunal for Rwanda, on which judges of the

International Tribunal for the Former Yugoslavia also sit, delivered its judgement in the *Butare* case, being the final and largest-ever appeal case of the International Criminal Tribunal for Rwanda.

35. One Appeals Chamber case is outstanding, namely the *Prlić et al.* case. This is the most voluminous appellate case in the history of the Tribunal, with seven appellants (including the Office of the Prosecutor) and a combined total of over 500 grounds and sub-grounds of appeal. The six defendants were convicted by the Trial Chamber of crimes against humanity and war crimes committed in Bosnia and Herzegovina between 1992 and 1994. The Appeals Chamber in the *Prlić et al.* case is composed of Judges Agius (presiding), Pocar, Liu, Meron and Moloto. Briefing in the appeal proceedings was completed on 29 May 2015, and the projected time frame for delivery of the appeal judgement remains November 2017. Although additional staff resources have been assigned in order to ensure that this deadline can be met, highly qualified staff members are expected to continue to leave the Tribunal for more secure employment elsewhere. It will thus be an increasing challenge to retain core staff members who are familiar with the voluminous case records and appeal briefs and the working methods of the Tribunal. The judges and legal support team have taken a variety of measures to avoid delays in the preparation of the appeal judgement. These include the creation of a timeline and organization of a workplan designed to maximize the additional staff resources, as well as the provision of ad hoc assistance to the legal support team by legal officers assigned to the judges on the bench.

(c) Other appeals

36. A total of 34 pre-appeal decisions and orders were issued during the reporting period.[1]

IV. Activity of the Office of the Prosecutor

A. Completion of trials and appeals

37. During the reporting period, the Office of the Prosecutor remained focused on expeditiously completing its final trial and appeal proceedings, while simultaneously managing its downsizing process. The Office continued to reallocate staff and resources flexibly to ensure that all court-ordered deadlines are met. The Office also continued to assist officials and personnel of the Mechanism in transferring functions in accordance with the transitional arrangements.

38. In the current reporting period, judgments were issued in two trials (*Karadžić* and *Šešelj*) and two appeals (*Stanišić and Simatović* and *Stanišić and Župljanin*).

39. On 24 March 2016, the Trial Chamber unanimously convicted Radovan Karadžić of genocide, crimes against humanity and war crimes, and sentenced him to a term of imprisonment of 40 years. On 31 March 2016, the Trial Chamber, by majority on eight out of nine counts, acquitted Vojislav Šešelj on all counts of the indictment. On 15 December 2015, the Appeals Chamber partially granted the Office of the Prosecutor's appeal in the *Stanišić and Simatović* case, revoked the Trial Chamber's judgement and ordered a retrial. On 30 June 2016, the Appeals

[1] This figure includes orders and decisions filed as of 31 July 2016.

Chamber delivered its judgment in the *Stanišić and Župljanin* case, affirming the accused's convictions and sentences. Pursuant to the transitional arrangements, retrial proceedings in the *Stanišić and Simatović* case and appeal proceedings in the *Karadžić* and *Šešelj* cases are being conducted by the Mechanism.

40. The Tribunal has one final trial (*Mladić*) and one final appeal (*Prlić et al.*). In the *Mladić* case, it is anticipated that closing arguments by both parties will be presented in the fall of this year. The *Hadžić* case, which had been stayed since October 2014 owing to the accused's ill-health, was terminated on 22 July 2016 following the death of the accused. The Appeals Division continues to focus on expeditiously and effectively preparing for the appeal hearing in the *Prlić et al.* case, which is expected to be held in early 2017.

41. The Office of the Prosecutor continued to downsize posts on the basis of the completion of relevant phases of the trial and appeal proceedings. Delays in the completion of proceedings have not affected the Office's downsizing, as the Office has been able to absorb the additional requirements within existing resources and continue its downsizing on schedule. The Office is actively supporting measures to assist staff in making the transition from their work at the Tribunal to the next step in their careers. The Office continues to support training of its staff members and to assist staff in taking advantage of the services offered by the Career Transition Office. Related to this, the Office of the Prosecutor is facilitating networking and other opportunities to assist its staff members and to ensure recognition of the considerable transferable skills of Office staff members, which are highly relevant to other core components of the Organization's work.

42. The Office of the Prosecutor of the Tribunal significantly increased its resource-sharing with the Office of the Prosecutor of the Mechanism during the reporting period with the implementation of the "one office" approach to integrating the staff and resources of the two offices. Under this policy, all prosecution staff will now be available to "double-hat" so that they can be flexibly assigned to either Tribunal- or Mechanism-related work depending on operational requirements and their case-related knowledge.

B. Cooperation

43. The Office of the Prosecutor continued to rely on the full cooperation of States, as required under article 29 of the statute of the International Tribunal for the Former Yugoslavia, to fulfil its mandate.

44. The Office of the Prosecutor continued to have appropriate access to documents, archives and witnesses in Bosnia and Herzegovina, Croatia and Serbia during the reporting period.

45. However, the Office regrets that Serbia has turned away from the path of full cooperation with the Tribunal. As both President Agius and the Prosecutor reported to the Security Council, Serbia has failed to cooperate with the Tribunal and to execute the Tribunal's arrest warrants for three Serbian indictees. Serbia has been obligated to enforce these arrest warrants since January 2015. It has had the opportunity to fully participate in proceedings before the Trial Chamber and provide explanations for its inaction. However, after hearing from Serbia, the Trial Chamber referred Serbia's non-cooperation to then President Meron and ordered Serbia to

provide regular reports on its efforts to execute the arrest warrants. The Office of the Prosecutor calls upon Serbian authorities to promptly arrest the three indictees and surrender them to the Tribunal's custody.

46. Cooperation and support from States outside the former Yugoslavia and from international organizations remains integral to the successful completion of Tribunal cases. Continued assistance is needed to access documents, information and witnesses, as well as in matters related to witness protection, including witness relocation. The Office of the Prosecutor again acknowledges the support it received during the reporting period from States Members of the United Nations and from international organizations, including the United Nations and its agencies, the European Union, the North Atlantic Treaty Organization, the Organization for Security and Cooperation in Europe and the Council of Europe.

C. Transition from the International Tribunal for the Former Yugoslavia to national war crimes prosecutions

47. As the Tribunal nears the completion of its mandate, the Office of the Prosecutor remains committed to promoting effective war crimes prosecutions in the former Yugoslavia through ongoing dialogue with counterparts and efforts to build capacity in the national justice sectors. The effective prosecution of war crimes committed during the conflicts in the former Yugoslavia is fundamental to building and sustaining the rule of law, as well as for truth-seeking and reconciliation. With the completion of the Tribunal's mandate approaching, accountability for these crimes now depends on national prosecution offices and judiciaries.

48. During the reporting period, the Office continued to assist national judicial authorities in the former Yugoslavia to more successfully handle their war crimes cases. The joint European Union/International Tribunal for the Former Yugoslavia Training Project for National Prosecutors and Young Professionals from the former Yugoslavia was a central component of the Office's efforts. The Office also provided information and evidence in respect of ongoing investigations and trials, while further enabling access to the Office's databases.

49. Overall, while the processing of war crimes cases in national judiciaries in the region continued during the reporting period, the picture remains mixed and current trends do not unambiguously point in a positive direction. The pace of national prosecutions is still not yet commensurate with the backlog of cases remaining to be completed. Sufficient progress has also not yet been made in investigating and prosecuting complex cases involving senior- and mid-level officials.

50. Regarding the category II cases (investigation files) transferred by the Office of the Prosecutor of the Tribunal to the Prosecutor's Office of Bosnia and Herzegovina, the Prosecutor's Office has taken prosecutorial decisions in all but one outstanding case. Indictments have been confirmed in those cases, and trial proceedings are under way. This important development demonstrates the value of the continued support to and engagement with national prosecutors on the part of the Office of the Prosecutor of the Tribunal. While recognizing the appropriate deployment of resources to the category II cases, it must also be noted that the Prosecutor's Office of Bosnia and Herzegovina continues to file significant numbers of indictments in less complex cases.

51. The Prosecutor's Office of Bosnia and Herzegovina has sought cooperation from Croatian authorities in processing a number of category II case files. In the course of transferring the relevant case files to Croatian judicial authorities, a number of challenges have arisen. Croatian authorities confirmed that one case from Bosnia and Herzegovina has been pending in the Ministry of Justice for more than one year without resolution as a result of Government of Croatia policy. The Office of the Prosecutor urges the Croatian authorities to promptly review their policy, as this political decision is hindering the urgently needed progress in regional cooperation and the processing of category II case files.

52. War crimes prosecutions in Serbia are at a crucial crossroads. The Government of Serbia adopted on 20 February 2016 the "National strategy for the prosecution of war crimes for the period 2016-2020". The strategy expresses the Government's commitment to accountability for war crimes, regardless of the nationality, ethnicity, religion or status of the perpetrator or victim. Yet, as previously mentioned, Serbia has failed to cooperate with the Tribunal by arresting three indictees for whom arrest warrants were issued in January 2015. There were a number of other concerning developments during the reporting period, including the failure of the Government of Serbia to secure the appointment of a new Chief War Crimes Prosecutor by the December 2015 deadline, the failure of the Serbian judiciary to enforce the sentence imposed by the State Court of Bosnia and Herzegovina in the *Djukić* case, and the continued glorification of war criminals in Serbia. It is now up to Serbia to demonstrate that it will fulfil its pledges to cooperate with the Tribunal, support accountability for war crimes and promote effective regional cooperation.

53. During the reporting period, the Office of the Prosecutor grew increasingly concerned that the positive trend in regional cooperation in war crimes cases is reversing. Political tensions between countries and nationalist pressures domestically, both related to the legacies of the conflicts, are not conducive to regional cooperation in war crimes cases. The increasingly difficult political environment has further highlighted and exacerbated known technical challenges in regional cooperation. The current challenges facing regional cooperation are not unique, nor are they insoluble. Regional cooperation has significantly advanced over the last decade through the dedicated efforts of judicial officials. Political will and support are now needed to make accountability a regional issue and advance solutions to current challenges.

D. Capacity-building and legacy

54. During the reporting period, the Office of the Prosecutor continued its efforts to transfer expertise and information to national authorities in order to build capacity for national war crimes prosecutions in the former Yugoslavia. It also shared the lessons learned and best practices developed from its work with national counterparts working across a range of criminal justice sectors in Africa, South America, Europe and the Middle East.

55. On 31 May 2016, the Office of the Prosecutor launched its book on the prosecution of conflict-related sexual violence crimes over the course of the Tribunal's mandate. This publication thoroughly documents and analyses the Office's work and the Tribunal's jurisprudence on these crimes. Prepared with a

capacity-building focus, the Office's book will be an important tool for practitioners. The Office is also in the process of developing training materials for teaching the key insights and messages from the book.

V. Activity of the Registry

56. During the reporting period, the Registry continued to provide legal, administrative, technical and logistical support to the judicial proceedings of the Tribunal while simultaneously focusing on preparations for further downsizing and closure of the Tribunal and the transfer of its records to the Mechanism.

57. With reduced staff, all sections of the Registry continued to merge functions and operational capacity to ensure efficiency and expeditiousness of operations. Registry staff demonstrated flexibility and readiness to accept broader responsibilities, without compromising on the quality of judicial and administrative support for some of the Tribunal's largest and most complex cases. Further, the Registry offered the entire spectrum of administrative services necessary for the smooth functioning of the Tribunal, provided assistance to national jurisdictions and managed the Tribunal's outreach programme.

58. At the same time, the Registry continued to provide services and overall administrative support to the Mechanism, assisted in the gradual process of establishing the Mechanism's own self-standing administration and contributed to the strengthening of the working relationship between the two branches of the Mechanism.

A. Office of the Registrar

59. The Immediate Office of the Registrar supported the Registrar in his overall responsibility of directing the Registry, including supervising all Registry sections and representing the Tribunal in its relations with the host State and other Member States, international organizations and external stakeholders. The Office also assisted in representing the Tribunal in its relations with the various organs of the United Nations, including in submissions to the Management Evaluation Unit and the United Nations Dispute and Appeals Tribunals.

60. The Immediate Office of the Registrar continued to support the Registrar, working hand in hand with Mechanism staff, in managing operations of the Mechanism Registry both in Arusha and The Hague, with a special focus on supporting judicial proceedings before the Mechanism, finalizing its policies and operating procedures and assisting in recruitment exercises.

61. The Immediate Office of the Registrar provided legal and policy advice on a variety of human resources issues and continued to assist the Registrar and the Division of Administration with the implementation of downsizing procedures, including conduct of the comparative review exercise for the 2016-2017 biennium and implementation of its results.

B. Division of Judicial Support Services

62. The Division of Judicial Support Services consists of the Court Support Services Section, the Judicial Records Unit, the United Nations Detention Unit and the Conference and Language Services Section. The Court Support Services Section has four units: the Witness Support and Operations Unit and the Witness Protection Unit (collectively referred to as the Victims and Witnesses Section); the Courtroom Operations Unit; and the Office for Legal Aid and Defence.

63. During the reporting period, the Registry supported four cases in trial and three on appeal (of which three trials and two appeals were concluded during the reporting period), involving a total of 14 accused persons, and filed approximately 115 legal submissions relevant to the Tribunal's ongoing or concluded cases. The Registry also supported one contempt case at the pre-trial stage involving three accused persons.

1. Court Support Services Section and Judicial Records Unit

64. During the reporting period, the Victims and Witnesses Section provided operational and psycho-social assistance to 45 witnesses (and accompanying support persons) appearing before the Tribunal and continued to consult with witnesses on applications to vary their protective measures in other Court proceedings, which increased over the reporting period. Further, the Section completed the final report on its pilot study of the long-term impact of giving testimony at the Tribunal. The report findings, derived from 300 witness interviews, were presented in The Hague and throughout the region of the former Yugoslavia during June 2016. The Section also took active steps to address security-related concerns by witnesses, including in cases that have resulted in relocation. Finally, it continued working closely with the Mechanism to streamline its practices and strengthen the working relationship between the two branches of the Mechanism.

65. The Courtroom Operations Unit supported four trials and three appeals over the reporting period, including three judgment renderings. It also assisted two self-represented accused through its *Pro Se* Office.

66. Moreover, as of 31 July 2016, the Judicial Records Unit had processed 1,501 Tribunal filings (23,593 pages), 953 Mechanism filings (7,024 pages), 320 Tribunal transcripts in English and French (24,130 pages) and 10 Mechanism transcripts in English and French (170 pages). The Unit also facilitated the sharing and transfer of judicial records between the Tribunal and the Mechanism.

67. The Office for Legal Aid and Defence continued to administer the Tribunal's legal aid system, overseeing more than 100 defence team members. Of the 14 individuals in trial and appeal proceedings during the reporting period, 12 were found unable or partially unable to remunerate counsel and were thus granted legal aid. Approximately half of those cases were ranked at the highest complexity level. The Office also administered the appointment and remuneration of *amici curiae* and provided assistance on legal, policy and operational matters relating to the management of the Mechanism's legal aid system.

2. United Nations Detention Unit

68. The United Nations Detention Unit continued to support both the Tribunal and the Mechanism and was responsible for detaining 19 individuals in conditions exceeding the relevant international standards. It facilitated detainees' presence at court hearings, ensured the care and security of one contempt detainee and implemented six provisional release decisions and orders. The Detention Unit continued to support self-represented accused in the preparation of their defence cases. Detainees were provided with in-house medical care and specialist medical assistance. Further, the Detention Unit continued to tailor its regime and services to meet the specific needs of an ageing detainee population and facilitated medical examinations by court appointed medical experts. In May 2016, in line with the steady decrease in the detainee population, the Detention Unit decommissioned one of its two remaining wings, reducing the number of cells from 32 to 20.

3. Conference and Language Services Section

69. The Conference and Language Services Section provided interpretation, translation and court reporting services for the Tribunal, resulting in approximately 18,200 pages of translation, 710 conference interpreter days and 14,000 pages of transcripts over the year. Notably, the Section delivered the translation of the lengthy Appeal judgment in the case of *Prosecutor v. Popović et al.*, and continued providing support to the Mechanism under the double-hatting arrangement. Careful scrutiny of translation requests to avoid duplication resulted in savings of approximately $235,000 over the reporting period.

C. Transfer of records

70. The Registrar established a high-level Records and Archives Working Group to coordinate the transfer of Tribunal records and archives to the Mechanism and ensure that it is done by the closure of the Tribunal. The Group meets on a monthly basis and has completed an overall plan and comprehensive risk assessment for the project. Further, the Mechanism Archives and Records Section continued to support Tribunal offices in preparing their records for transfer to the Mechanism by providing briefings for managers and training for staff. The Section also worked with offices to set individual periodic targets for disposition, which will be regularly monitored by the Records and Archives Working Group. To date, the Tribunal has transferred over 30 per cent of the estimated total volume of physical records that are expected to be transferred to the Mechanism. The Tribunal also transferred 1.48 petabytes, approximately 80 per cent, of the Tribunal's digital records during the reporting period.

D. Communications Service

71. The Communications Service managed access to the Tribunal during the delivery of three judgments, including that of the *Karadžić* case, which was attended by approximately 500 people, including representatives of the diplomatic community, journalists, academics and an unprecedented number of victims' groups.

72. The Communications Service assisted in the organization of President Agius's first briefing to the diplomatic community in The Hague and coordinated

educational visits to the Tribunal and the Mechanism for more than 250 groups, welcoming over 6,000 visitors.

73. The Tribunal's website recorded more than 2.2 million page views. The website also underwent a complete design overhaul and was migrated to a Drupal unified content management framework to facilitate its future evolution into a legacy website. Additionally, an information page with an interactive timeline and an innovative tool allowing access to case information and documents were created and added to the site in advance of the *Karadžić* trial judgment. For the first time, the entirety of the video recordings of an international criminal trial is available online.

74. The Communications Service continued working with local authorities and international partners to establish information centres in the former Yugoslavia. Efforts are under way to finalize agreements with the City of Sarajevo and the Memorial Centre Srebrenica-Potočari and to explore the possibility of establishing information centres in other countries of the region.

75. The outreach programme extended its efforts to inform people in the former Yugoslavia about the Tribunal, reaching more than 2,000 students and teachers through 55 high school and university lectures and presentations. The Tribunal's field offices in Serbia and Bosnia and Herzegovina organized 20 events reaching more than 1,000 individuals. The fifth and sixth in the series of the outreach programme's documentaries about the work of the Tribunal (a revised version of "Crimes before the ICTY: Višegrad" and "Dubrovnik and crimes against cultural heritage") were completed and screened in Bosnia and Herzegovina, Croatia and Serbia. During the reporting period, 10 television stations in the former Yugoslavia, as well as UNTV, expressed interest in screening both documentaries. In addition, to mark the fifteenth anniversary of the outreach programme, the Tribunal completed and published a book providing a comprehensive overview of its activities and development over the years. The publication, "15 years of outreach at the ICTY", will be launched in the second half of 2016.

76. Further, the European Union generously confirmed its support for the outreach programme by pledging funds that will ensure the continuation of the programme until the Tribunal's closure. The Tribunal stresses the importance of General Assembly resolution 65/253, in which the Assembly encouraged the Secretary-General to continue to explore measures to raise voluntary funds for outreach activities and called upon States and other donors to offer their support.

E. Administrative Support Service Division

77. By resolution 70/242, the General Assembly approved the Tribunal's proposed programme budget and appropriated a revised amount of $95,747,100 gross ($85,024,600 net) for the 2016-2017 biennium. This amount represents a 52 per cent decrease as compared to the revised appropriation for the biennium 2014-2015.

78. During the 2016-2017 biennium, extrabudgetary resources are estimated at $1,000,000, to be used for a variety of Tribunal activities. During the reporting period, the Tribunal administered several extrabudgetary initiatives, including outreach activities in the former Yugoslavia and training programmes for young prosecutors.

79. The Division of Administration made considerable progress towards the implementation of the Tribunal's administrative liquidation plan, continuing with the transfer/disposal of assets, consolidating all Hague-based operations into a single premises and further downsizing the two remaining field offices.

80. Also as part of the overall liquidation plan, the Division of Administration remained actively engaged in staff downsizing efforts, the plan for which, as in previous years, was formulated in full consultation with operational managers and staff representatives. OIOS noted that the comparative review and downsizing process implemented at the Tribunal represented "best practice in leadership of a change process". The Tribunal's Career Transition Office has continued to support staff in all aspects of career transition during the period of downsizing and closure of the Tribunal by offering training courses and organizing workshops.

81. The Tribunal is continuing the phased downsizing of posts in accordance with the decrease in judicial activity during the biennium 2016-2017, which will eventually result in the abolition of all positions by 31 December 2017.

82. The Division undertook extensive Umoja conversion activities and ensured that both the Tribunal and the Mechanism successfully took part in the Umoja cluster 4 roll-out.

83. Finally, the Division provided overall administrative support and services to the Mechanism in the areas of human resources, general services, procurement, finance, information technology and security. In anticipation of the Tribunal's closure at the end of 2017, the Tribunal continued to support the Mechanism in the transition to a lean self-standing administration.